

REGIS BERNABE, MAURILIO CEBADA, and JOSE
LUIS MARTINEZ, on behalf of themselves and others
similarly situated,

Plaintiff,

-against-

GIANT BIG APPLE BEER LTD., and SUNNY PAEK,

Defendants,

ROSS, United States District Judge:

On December 20, 2006, the three named plaintiffs in this case filed the instant action against Giant Big Apple Beer Ltd. and its owner, Sunny Paek, (“defendants”), alleging violations of certain federal and state labor laws. (Dkt. No. 1). In the following months, twenty other individuals each filed with the court a consent to become a plaintiff in this action. (See Dkt. Nos. 11-27, 30, 32-33).

On October 26, 2007, counsel for plaintiffs, Mr. Stuart Lichten, moved pursuant to Local Civil Rule 1.4 to withdraw as attorney for plaintiffs Miguel Escamilla, Mario Gutierrez, Segundo Efrain Paucar, Jorge Sanango, and Cirilo Hernandez Sosa, (collectively the “missing plaintiffs”). (Dkt. No. 80). Mr. Lichten indicated that he had lost contact with the missing plaintiffs. (Dkt. No. 81). On October 30, 2007, the defendants responded to this motion by stating that they did not oppose Mr. Lichten’s request to withdraw as counsel to the missing plaintiffs, provided that their claims “are dismissed with prejudice.” (Dkt. No. 83). On November 1, 2007, the court

referred the motions to Magistrate Judge Kiyo A. Matsumoto for a Report and Recommendation, pursuant to 28 U.S.C. § 636(b)(1)(B). The court has now received the Amended Report and Recommendation of Judge Matsumoto dated November 9, 2007 and no objections have been filed.¹

Having conducted a de novo review of the record, the court hereby adopts the Amended Report and Recommendation in its entirety pursuant to 28 U.S.C. § 636(b)(1). Accordingly, the court grants defendants' motion to dismiss the claims of the missing plaintiffs, namely Miguel Escamilla, Mario Gutierrez, Segundo Efrain Paucar, Jorge Sanango, and Cirilo Hernandez Sosa, and orders that those claims be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b). Mr. Lichten's motion to withdraw as attorney for the missing plaintiffs, see Dkt. Nos. 78-80, is denied as moot.

SO ORDERED.

s/ Judge Allyne R. Ross

Allyne R. Ross
United States District Judge

Dated: December 19, 2007
Brooklyn, New York

¹ Judge Matsumoto ordered Mr. Lichten to send a copy of the report to the missing plaintiffs and file a declaration of service by November 9, 2007. Mr. Lichten has complied with this order. (See Dkt. No. 90).

SERVICE LIST:

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Plaintiffs:

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cc: Magistrate Judge Matsumoto